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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the	)	CC Docket No. 96-128
Pay Telephone Reclassification	)	
and Compensation Act of 1996	)	

COMMENTS OF THE
UNITED STATES TELEPHONE ASSOCIATION

The United States Telephone Association ("USTA") hereby files these comments in response to the Commission's *Public Notice*.[1] USTA is the principal trade association for the local exchange carrier industry ("LECs").

The Commission's *Public Notice* was issued in response to the judicial remand of compensation issues[2] regarding its payphone Orders.[3] The payment of compensation for payphone calls is inextricably linked to the identification of such calls for compensation. USTA's comments will address concerns regarding the ability of LECs, particularly small, mid-size and rural LECs to meet the requirement to provide codes that identify payphone calls for

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1 *Public Notice* DA 97-1673 released August 26, 1997.

2 *Illinois Public Telecommunications Ass'n v. FCC*, Nos. 96-1394 *et al.* (D.C. Cir. July 1, 1997).

3 *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, *Report & Order*, 11 FCC Rcd 20541 (1996) ("*Payphone Order*"); *Order on Reconsideration*, 11 FCC Rcd 21233 (1996) ("*Order on Reconsideration*").

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compensation.

The twin goals of Section 276(b)(1) are to "promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public ....[4] In the *Order on Reconsideration*, the Commission recognized that the ability of interexchange carriers ("IXCs") to successfully implement the goals of Section 276 could not be based on a single technology:

> In the *Report and Order*, we concluded that "tracking capabilities vary from carrier to carrier" and concluded, as a result, that the "LECs, PSPs, and the carriers receiving payphone calls should be able to take advantage of each others technological capabilities through the contracting process." We also concluded that "no standardized technology for tracking calls is necessary, and that IXCs may use the technology of their choice to meet their tracking obligations ...." [5]

LECs must also have the same flexibility to use the most cost-effective means to comply with the Commission's *Payphone Orders*. In paragraph 64 of the *Order on Reconsideration* the Commission stated "that LECs must make available to payphone service providers ("PSPs"), on a tariff basis, such coding digits as a part of the ANI for each payphone."[6] On July 28, 1997, USTA filed the attached *ex parte* document that identified the enormous costs that LECs would have to bear to supply specific codes for purposes of identifying payphone calls for which the IXCs would pay PSPs compensation. The network configuration of LECs and their individual capabilities to meet the requirements of paragraph 64 varies greatly. The costs to LECs for

[4] 47 U.S.C. §276(b)(1).

[5] *Order on Reconsideration* at 48, ¶99.

[6] *Id.* at 34, ¶64.

upgrading their networks, including replacing switches, ranges from \$700 million to over \$1billion dollars. Even if LECs were to undertake this task today, the modifications would take years to implement. Small, mid-size, and rural carriers would face severe financial impacts. Also, many small and rural carriers may simply eliminate their payphone service which has the impact of reducing competition and eliminating telecommunications services in such communities.

The Commission's *Payphone Order* recognized the importance of public interest payphones, especially the need for such service in rural and isolated areas, in meeting public health, safety, and welfare needs of consumers:

> We are particularly concerned about the role served by payphones in providing access to emergency services, especially in isolated locations and areas with low levels of residential phone penetration. Indeed, in some such areas, payphones are the only readily available means of accessing these critical communications services. Moreover, ... some payphones which are most critical for public health, safety and welfare purposes, are also the least likely to be economically self supporting. With the elimination of subsidies which have helped support such payphones in the past, as directed by the 1996 Act, it is possible that many of these payphones could disappear absent the availability of alternative methods to ensure their existence.[7]

The Commission also affirmed that "each state should evaluate whether it needs to take any measures to ensure that payphones serving important public interests will continue to exist in light of the elimination of subsidies and other competitive provisions established pursuant to Section 276 of the Act, and that any existing programs are administered and funded consistent

[7] *Payphone Order* at 138-139, ¶277.

with the requirements [of Section 276(b)(2)[8] or state universal service rules pursuant to Section 254(f)[9] of the Act.]."[10] Regulations that impose additional costs on LECs can only hasten the elimination of payphones in areas that need them the most.

LECs must be permitted to fully recover the cost of implementing the Commission's mandates. Otherwise, LECs will bear the responsibility of subsidizing payphone service. In addition, LECs must be allowed the time necessary to comply with the Commission's Orders.

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

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8 47 U.S.C. §276(b)(2)(deployment of public interest payphones).

9 47 U.S.C. §254(f)(state authority to adopt regulations to promote universal service).

10 *Payphone Order* at 143, ¶285.